

# Agency at a Glance

The Office of Public Insurance Counsel (OPIC) represents the interests of consumers as a class in insurance matters. The Legislature created OPIC in 1991 as an independent agency to advocate for consumers in rate, form, and rule proceedings primarily at the Texas Department of Insurance (TDI). To accomplish its mission, the Office of Public Insurance Counsel:

- reviews rate and policy form filings, and works with TDI and insurance companies to negotiate changes advantageous to consumers;
- participates in contested rate cases and industry-wide rate hearings before the State Office of Administrative Hearings, the Commissioner of Insurance, district court, and the court of appeals;
- advocates on behalf of consumers in rulemaking procedures at TDI; and
- provides information to consumers regarding insurance coverage and markets.

### **Key Facts**

- Public Counsel. The Public Counsel directs the activities of the agency, which does not have
  a policymaking body. The Governor appoints the Public Counsel, and the Senate confirms the
  two-year appointment. The Public Counsel must be licensed to practice law in Texas, must have
  shown dedication to protecting the rights of the public, and must be able to practice effectively in
  insurance proceedings.
- Funding. In fiscal year 2009, OPIC operated on about a \$1 million budget. Statute authorizes OPIC to assess insurers to offset the agency's operating costs. Annual assessments are 5.7 cents for each insurance policy in the property and casualty; title; and life, health, and accident lines. The pie chart, OPIC Expenditures by Strategy, details how OPIC spent its appropriations in fiscal year 2009.

# Participation in Rate, Rulemaking, Judicial, and Legislative Proceedings \$979,237 (92%) Publication of Insurance Information \$87,677 (8%) Total: \$1,066,914

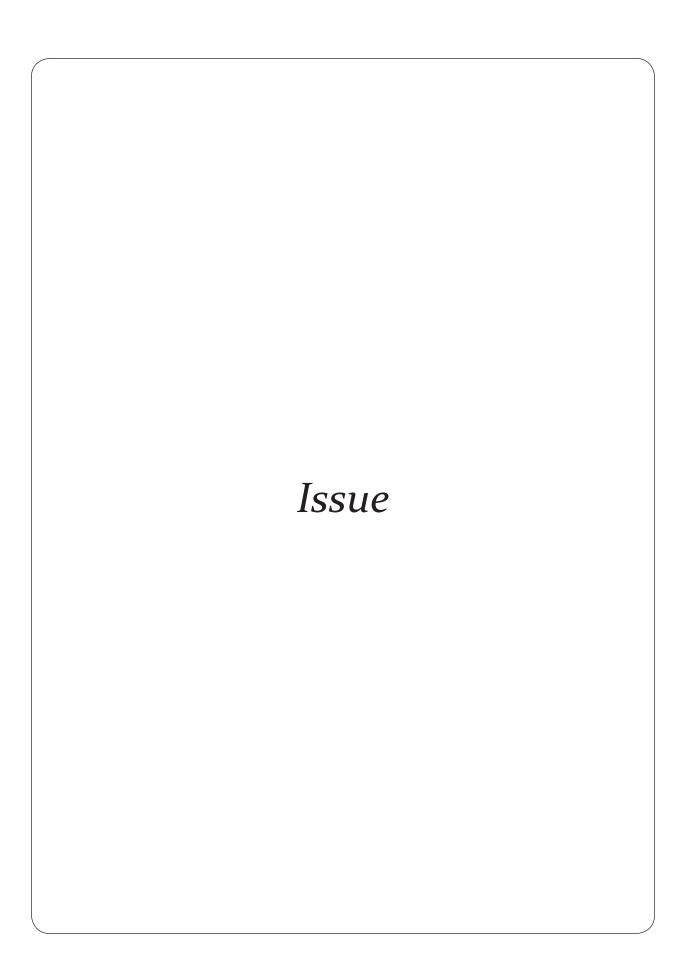
- **Staff**. OPIC has 16.5 approved full-time equivalent positions, including an economist, a statistician, attorneys, researchers, and administrative staff. All OPIC employees work in Austin.
- Rate and Form Review. To protect consumer interests, OPIC analyzes and intervenes in insurance
  company rate and form filings made to TDI for all lines of insurance. OPIC negotiates with
  companies and TDI to make changes to rate and form filings to benefit consumers. OPIC may

also contest individual filings and participate in individual and industry-wide contested case hearings or judicial appeals. The chart, *OPIC Rate and Form Filing Workload*, details OPIC's workload in fiscal year 2009. OPIC did not participate in any judicial appeals in that same year.

## OPIC Rate and Form Filing Workload FY 2009

Filing Action	Rates	Forms
Received and Analyzed	706	514
Negotiated	52	36
Contested Case Hearings	5	0

- Rule Review. OPIC reviews rule proposals and works with TDI to make modifications before publication for public comment. In rulemaking hearings, OPIC has the same legal status as any stakeholder group. In fiscal year 2009, OPIC reviewed 51 rule proposals and negotiated changes in 16 rule proposals.
- Insurance Information for Consumers. OPIC produces several types of consumer publications about insurance coverage including health maintenance organization reports, a guide for homeowners insurance on the Texas coast, a guide outlining recent changes in windstorm insurance law, consumer bills of rights, underwriting guidelines, and a homeowners' policy comparison tool. OPIC also has an interagency contract to review TDI publications from a consumer perspective.



## Issue 1

# The State Has a Continuing Need for the Office of Public Insurance Counsel.

#### **Background**

To represent insurance consumers in Texas, the Office of Public Insurance Counsel (OPIC) assesses the effect of insurance rates, policy forms, and rules on consumers and, as statute allows, intervenes when problems arise. The Office also performs a limited consumer education function, which consists of producing 11 publications and reviewing all TDI publications from a consumer perspective.

#### **Findings**

No significant changes have occurred to affect the 2008 Sunset Commission's recommendation to continue the Office of Public Insurance Counsel.

In 2008, the Sunset Commission considered the continuing need for an independent agency to represent consumers in insurance matters. The Sunset Commission also considered potential structural changes to the Office, including transferring some of OPIC's functions to TDI. The Sunset Commission concluded that the independence provided by being a separate, stand-alone agency was important and outweighed any potential benefits of changing the Office's structure. As a result, the Sunset Commission recommended that the Legislature continue the Office for 12 years. The recommendation remains appropriate since consumers continue to need an advocate in complex insurance matters, and Texas continues to need an agency to perform these functions.

In 2008,
the Sunset
Commission
concluded that the
Office's structure
as an independent
agency was
important.

# Statute does not reflect standard language typically applied across the board during Sunset reviews.

The Office's governing statute does not include a standard provision relating to alternative dispute resolution that the Sunset Commission routinely applies to agencies under review. Without this provision, the agency could miss opportunities to improve dispute resolution through more open, inclusive, and conciliatory processes designed to solve problems by building consensus.

#### Recommendations

#### Change in Statute

1.1 Continue the Office of Public Insurance Counsel for 12 years.

This recommendation would continue OPIC as an independent agency for 12 years.

## 1.2 Apply the standard Sunset across-the-board requirement for the Office to develop a policy regarding alternative dispute resolution.

This recommendation would ensure that OPIC develops and implements a policy to encourage alternative procedures for dispute resolution, conforming to the extent possible to model guidelines by the State Office of Administrative Hearings. The standard language would be modified to exclude references to rulemaking, since OPIC does not have rulemaking authority.

The agency would also provide training as needed, and collect data concerning the effectiveness of these procedures. Because the recommendation only requires the agency to develop a policy for this alternative approach to solving problems, it would not require additional staffing or other expenses.

### **Fiscal Implication Summary**

If the Legislature continues OPIC, its annual appropriation of about \$1 million would need to be continued. However, annual assessments on insurance policies would continue to cover OPIC's appropriations. Applying the Sunset across-the-board requirement on alternative dispute resolution would not have a fiscal impact to the State.

# SUNSET STAFF REVIEW OF THE TEXAS DEPARTMENT OF INSURANCE OFFICE OF PUBLIC INSURANCE COUNSEL

#### REPORT PREPARED BY:

Chloe Lieberknecht, Project Manager

Erin Gilmer

Kelly Kennedy

Robert Romig

Dawn Roberson

Ginny McKay, Project Supervisor

**Ken Levine** Interim Director

Sunset Advisory Commission PO Box 13066 Austin, TX 78711

Robert E. Johnson Bldg., 6th Floor 1501 North Congress Avenue Austin, TX 78701

www.sunset.state.tx.us

(512)463-1300 Fax (512)463-0705